

## § 361.6

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must be given access to all parts of that quantity.

(1) For free-flowing seed in bags or in bulk, a probe or trier shall be used. For small free-flowing seed in bags, a probe or trier long enough to sample all portions of the bag shall be used. When drawing more than one trierful of seed from a bag, a different path through the seed shall be used when drawing each sample.

(2) For non-free-flowing seed in bags or bulk that may be difficult to sample with a probe or trier, samples shall be obtained by thrusting one's hand into the seed and withdrawing representative portions. The hand shall be inserted in an open position with the fingers held closely together while the hand is being inserted and the portion withdrawn. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(3) When more than one sample is drawn from a single lot, the samples may be combined into a composite sample unless it appears that the quantity of seed represented as a lot is not of uniform quality, in which case the separate samples shall be forwarded together, but without being combined into a composite sample.

(d) In most cases, samples will be drawn and examined by an APHIS inspector at the port of first arrival. The APHIS inspector may release a shipment if no contaminants are found and the labeling is sufficient. If contaminants are found or the labeling of the seed is insufficient, the APHIS inspector may forward the sample to the USDA Seed Examination Facility (SEF), Beltsville, MD, for analysis, testing, or examination. APHIS will notify the owner or consignee of the seed that samples have been drawn and forwarded to the SEF and that the shipment must be held intact pending a decision by APHIS as to whether the seed is within the noxious weed seed tolerances of § 361.6 and is accurately labeled. If the decision pending is with regard to the noxious weed seed content of the seed and the seed has been determined to be accurately labeled, the seed may be released for delivery to the owner or consignee under the following conditions:

(1) The owner or consignee executes with Customs either a Customs single-entry bond or a Customs term bond, as appropriate, in such amount as is prescribed by applicable Customs regulations;

(2) The bond must contain a condition for the redelivery of the seed or any part thereof upon demand of the Port Director of Customs at any time;

(3) Until the seed is approved for entry upon completion of APHIS' examination, the seed must be kept intact and not tampered with in any way, or removed from the containers except under the monitoring of an APHIS inspector; and

(4) The owner or consignee must keep APHIS informed as to the location of the seed until it is finally entered into the commerce of the United States.

### § 361.6 Noxious weed seeds.

(a) Seeds of the plants listed in paragraphs (a)(1) and (a)(2) of this section shall be considered noxious weed seeds.

(1) Seeds with no tolerances applicable to their introduction:

*Acacia nilotica* (Linnaeus) Willdenow ex Delile  
*Aeginetia* spp.  
*Ageratina adenophora* (Sprengel) King & Robinson  
*Ageratina riparia* (Regel) R.M. King and H. Robinson  
*Alectra* spp.  
*Alternanthera sessilis* (L.) R. Brown ex de Candolle  
*Arctotheca calendula* (Linnaeus) Levyns  
*Asphodelus fistulosus* L.  
*Avena sterilis* L. (including *Avena ludoviciana* Durieu)  
*Azolla pinnata* R. Brown  
*Carthamus oxyacantha* M. Bieberstein  
*Chrysopogon aciculatus* (Retzius) Trinius  
*Commelina benghalensis* L.  
*Crupina vulgaris* Cassini  
*Cuscuta* spp.  
*Digitaria abyssinica* (Hochstetter ex A. Richard) Stapf  
*Digitaria velutina* (Forsskal) Palisot de Beauvois  
*Drymaria arenariodes* Humboldt & Bonpland ex J.A. Schultes  
*Eichhornia azurea* (Swartz) Kunth  
*Emex australis* Steinheil  
*Emex spinosa* (L.) Campdera  
*Euphorbia terracina* Linnaeus  
*Galega officinalis* L.  
*Heracleum mantegazzianum* Sommier & Levier  
*Hydrilla verticillata* (Linnaeus f.) Royle  
*Hygrophila polysperma* T. Anderson  
*Imperata brasiliensis* Trinius

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<i>Imperata cylindrica</i> (Linnaeus) Palisot de Beauvois	<i>Prosopis sericantha</i> Gillies ex Hooker & Arnott
<i>Inula britannica</i> Linnaeus	<i>Prosopis strombulifera</i> (Lamarck) Benth
<i>Ipomoea aquatica</i> Forsskal	<i>Prosopis torquata</i> (Cavanilles ex Lagasca y Segura) de Candolle
<i>Ischaemum rugosum</i> Salisbury	<i>Rottboellia cochinchinensis</i> (Lour.) W. Clayton
<i>Lagarosiphon major</i> (Ridley) Moss	<i>Rubus fruticosus</i> L. (complex)
<i>Leptochloa chinensis</i> (L.) Nees	<i>Rubus moluccanus</i> L.
<i>Limnophila sessiliflora</i> (Vahl) Blume	<i>Saccharum spontaneum</i> L.
<i>Lycium ferocissimum</i> Miers	<i>Sagittaria sagittifolia</i> L.
<i>Lygodium flexuosum</i> (Linnaeus) Swartz (maidenhair creeper)	<i>Salsola vermiculata</i> L.
<i>Lygodium microphyllum</i> (Cavanilles) R. Brown (Old World climbing fern)	<i>Salvinia auriculata</i> Aublet
<i>Melaleuca quinquenervia</i> (Cav.) Blake	<i>Salvinia biloba</i> Raddi
<i>Melastoma malabathricum</i> L.	<i>Salvinia herzogii</i> de la Sota
<i>Mikania cordata</i> (Burman f.) B. L. Robinson	<i>Salvinia molesta</i> D.S. Mitchell
<i>Mikania micrantha</i> Kunth	<i>Senecio inaequidens</i> DC.
<i>Mimosa diplotricha</i> C. Wright	<i>Senecio madagascariensis</i> Poir.
<i>Mimosa pigra</i> L. var. <i>pigra</i>	<i>Setaria pumila</i> (Poir.) Roem. & Schult. subsp. <i>pallidifusca</i> (Schumach.) B.K. Simon
<i>Monochoria hastata</i> (L.) Solms-Laubach	<i>Solanum tampicense</i> Dunal (wetland nightshade)
<i>Monochoria vaginalis</i> (Burman f.) C. Presl	<i>Solanum torvum</i> Swartz
<i>Moraea collina</i> Thunberg	<i>Solanum viarum</i> Dunal
<i>Moraea flaccida</i> (Sweet) Steudel	<i>Sparganium erectum</i> L.
<i>Moraea miniata</i> Andrews	<i>Spermacoce alata</i> Aublet
<i>Moraea ochroleuca</i> (Salisbury) Drapiez	<i>Striga</i> spp.
<i>Moraea pallida</i> (Baker) Goldblatt	<i>Tridax procumbens</i> L.
<i>Nassella trichotoma</i> (Nees) Hackel ex Arechavaleta	<i>Urochloa panicoides</i> Beauvois
<i>Onopordum acaulon</i> Linnaeus	(2) Seeds with tolerances applicable to their introduction:
<i>Onopordum illyricum</i> Linnaeus	<i>Acroptilon repens</i> (L.) DC. (= <i>Centaurea repens</i> L.) (= <i>Centaurea picris</i> )
<i>Opuntia aurantiaca</i> Lindley	<i>Cardaria draba</i> (L.) Desv.
<i>Orobancha</i> spp.	<i>Cardaria pubescens</i> (C. A. Mey.) Jarmol.
<i>Oryza longistaminata</i> A. Chevalier & Roehrich	<i>Convolvulus arvensis</i> L.
<i>Oryza punctata</i> Kotschy ex Steudel	<i>Cirsium arvense</i> (L.) Scop.
<i>Oryza rufipogon</i> Griffith	<i>Elytrigia repens</i> (L.) Desv. (= <i>Agropyron repens</i> (L.) Beauv.)
<i>Ottelia alismoides</i> (L.) Pers.	<i>Euphorbia esula</i> L.
<i>Paspalum scrobiculatum</i> L.	<i>Sonchus arvensis</i> L.
<i>Pennisetum clandestinum</i> Hochstetter ex Chiovenda	<i>Sorghum halepense</i> (L.) Pers.
<i>Pennisetum macrourum</i> Trinius	(b) The tolerance applicable to the prohibition of the noxious weed seeds listed in paragraph (a)(2) of this section shall be two seeds in the minimum amount required to be examined as shown in column 1 of table 1 of § 361.5. If fewer than two seeds are found in an initial examination, the shipment from which the sample was drawn may be entered. If two seeds are found in an initial examination, a second sample must be examined. If two or fewer seeds are found in the second examination, the shipment from which the samples were drawn may be entered. If three or more seeds are found in the second examination, the shipment from which the samples were drawn may not be entered. If three or more seeds are found in an initial examination, the
<i>Pennisetum pedicellatum</i> Trinius	
<i>Pennisetum polystachion</i> (L.) Schultes	
<i>Prosopis alapataco</i> R. A. Philippi	
<i>Prosopis argentina</i> Burkart	
<i>Prosopis articulata</i> S. Watson	
<i>Prosopis burkartii</i> Munoz	
<i>Prosopis caldenia</i> Burkart	
<i>Prosopis calingastana</i> Burkart	
<i>Prosopis campestris</i> Grisebach	
<i>Prosopis castellanosi</i> Burkart	
<i>Prosopis denudans</i> Benth	
<i>Prosopis elata</i> (Burkart) Burkart	
<i>Prosopis farcta</i> (Banks & Solander) J.F. Macbride	
<i>Prosopis ferox</i> Grisebach	
<i>Prosopis fiebrigii</i> Harms	
<i>Prosopis hassleri</i> Harms	
<i>Prosopis humilis</i> Gillies ex Hooker & Arnott	
<i>Prosopis kuntzei</i> Harms	
<i>Prosopis pallida</i> (Humboldt & Bonpland ex Willdenow) Kunth	
<i>Prosopis palmeri</i> S. Watson	
<i>Prosopis reptans</i> Benth var. <i>reptans</i>	
<i>Prosopis rojasiana</i> Burkart	
<i>Prosopis ruizlealii</i> Burkart	
<i>Prosopis ruscifolia</i> Grisebach	

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shipment from which the sample was drawn may not be entered.

(c) Any seed of any noxious weed that can be determined by visual inspection (including the use of transmitted light or dissection) to be within one of the following categories shall be considered inert matter and not counted as a weed seed:

(1) Damaged seed (other than grasses) with over one half of the embryo missing;

(2) Grass florets and caryopses classed as inert:

(i) Glumes and empty florets of weedy grasses;

(ii) Damaged caryopses, including free caryopses, with over one-half the root-shoot axis missing (the scutellum excluded);

(iii) Immature free caryopses devoid of embryo or endosperm;

(iv) Free caryopses of quackgrass (*Elytrigia repens*) that are 2 mm or less in length; or

(v) Immature florets of quackgrass (*Elytrigia repens*) in which the caryopses are less than one-third the length of the palea. The caryopsis is measured from the base of the rachilla.

(3) Seeds of legumes (*Fabaceae*) with the seed coats entirely removed.

(4) Immature seed units, devoid of both embryo and endosperm, such as occur in (but not limited to) the following plant families: buckwheat (*Polygonaceae*), morning glory (*Convolvulaceae*), nightshade (*Solanaceae*), and sunflower (*Asteraceae*).

(5) Dodder (*Cuscuta* spp.) seeds devoid of embryos and seeds that are ashy gray to creamy white in color are inert matter. Dodder seeds should be sectioned when necessary to determine if an embryo is present, as when the seeds have a normal color but are slightly swollen, dimpled, or have minute holes.

[62 FR 48460, Sept. 16, 1997, as amended at 64 FR 12884, Mar. 16, 1999; 65 FR 33743, May 25, 2000; 71 FR 35381, June 20, 2006; 74 FR 53400, Oct. 19, 2009; 75 FR 68956, Nov. 10, 2010]

### § 361.7 Special provisions for Canadian-origin seed and screenings.

(a) In addition to meeting the declaration and labeling requirements of § 361.2 and all other applicable provi-

sions of this part, all Canadian-origin agricultural seed and Canadian-origin vegetable seed imported into the United States from Canada for seeding (planting) purposes or cleaning must be accompanied by a certificate of analysis issued by the Canadian Food Inspection Agency or by a private seed laboratory accredited by the Canadian Food Inspection Agency. Samples of seed shall be drawn using sampling methods comparable to those detailed in § 361.5 of this part. The seed analyst who examines the seed at the laboratory must be accredited to analyze the kind of seed covered by the certificate.

(1) If the seed is being imported for seeding (planting) purposes, the certificate of analysis must verify that the seed meets the noxious weed seed tolerances of § 361.6. Such seed will not be subject to the sampling requirements of § 361.3(b).

(2) If the seed is being imported for cleaning, the certificate of analysis must name the kinds of noxious weed seeds that are to be removed from the lot of seed. Seed being imported for cleaning must be consigned to a facility operated in accordance with § 361.8(a).

(b) Coated or pelleted agricultural seed and coated or pelleted vegetable seed of Canadian origin may be imported into the United States if the seed was analyzed prior to being coated or pelleted and is accompanied by a certificate of analysis issued in accordance with paragraph (a) of this section.

(c) Screenings otherwise prohibited under this part may be imported from Canada if the screenings are imported for processing or manufacture and are consigned to a facility operating under a compliance agreement as provided by § 361.8(b).

(Approved by the Office of Management and Budget under control number 0579-0124)

### § 361.8 Cleaning of imported seed and processing of certain Canadian-origin screenings.

(a) Imported seed that is found to contain noxious weed seeds at a level higher than the tolerances set forth in § 361.6(b) may be cleaned under the monitoring of an APHIS inspector. The cleaning will be at the expense of the owner or consignee.